

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

IVA JOY and WILLIAM JOY,)
v.)
Plaintiffs,)
BERKSHIRE HATHAWAY, INC.;)
NATIONAL INDEMNITY)
CORPORATION; and)
AMGUARD INSURANCE COMPANY,)
Defendants.)

No. 1:20-cv-1131-STA-jay

ORDER GRANTING UNOPPOSED MOTIONS TO DISMISS

Before the Court are separate Motions to Dismiss by Defendants Berkshire Hathaway, Inc. (ECF No. 14) and National Indemnity Corporation (ECF No. 15), both filed August 7, 2020. Plaintiffs Iva Joy and William Joy have filed a response (ECF No. 24) to the Motions and “concede[] that . . . in light of prevailing precedent and the declarations of relevant [corporate] officers [of each Defendant] . . . the motions are due to be granted on an interlocutory basis.” Pls.’ Resp. to Mots. to Dismiss 1, Oct. 23, 2020 (ECF No. 24). Plaintiffs have reserved their right to amend their pleadings and renew claims against each Defendant “[i]n the event the information [in the declarations proves to be] inaccurate during discovery . . .” *Id.* at 1 n.1.

The Sixth Circuit has remarked that “the plaintiff remains the master of its complaint” and that, if the plaintiff “concedes that it is not bringing a claim,” then the district court “should take it at its word.” *NicSand, Inc. v. 3M Co.*, 507 F.3d 442, 458 (6th Cir. 2007).

Based on Plaintiffs' concessions and for the reasons stated in Defendants' opening briefs, the Motions to Dismiss are **GRANTED**. The Court notes for the record Plaintiffs' reservation of their right to amend their pleadings at a future time in order to renew any claims against the moving Defendants. Plaintiffs also state that they intend to file an amended pleading should the parties be unable to resolve their dispute prior to October 31, 2020.

The Clerk is directed to terminate Berkshire Hathaway, Inc. and National Indemnity Corporation as parties to this action. All other claims against Defendant Amguard Insurance Company remain.

IT IS SO ORDERED.

s/ S. Thomas Anderson
S. THOMAS ANDERSON
CHIEF UNITED STATES DISTRICT JUDGE

Date: November 3, 2020